

JUL 13 U.S. PTO
10/06/01

PATENT
ATTORNEY DOCKET NO.: 44574-5003-2

10/004427
12/05/01
pro

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Assistant Commissioner for Patents
BOX PATENT APPLICATION
Washington, D.C. 20231

PRIOR APPLICATION: Examiner: B. Loeb, Ph.D.
Group Art Unit: 1636

**CONTINUATION, DIVISIONAL, AND CONTINUATION-IN-PART
PATENT APPLICATION TRANSMITTAL UNDER 37 C.F.R. § 1.53(b)**

This is a request for filing a patent application under 37 C.F.R. § 1.53(b).

1. This application is a [] Continuation **[X]** Divisional [] Continuation-in-Part patent application under 37 C.F.R. § 1.53(b), of Continuation Application No. 09/506,729, filed on February 18, 2000 (pending allowance), which claims priority to PCT International Application No. PCT/US98/17284, filed August 21, 1998, which claims priority to U.S. Provisional application no. 60/056,844, filed on August 22, 1997.

Inventor(s): Subrahmanyam V. YERRAMILLI , Peter NEWBURGER,
Sherman M. WEISSMAN, Yatindra PRASHAR and Jon GOGUEN.

For: **A PROCESS TO STUDY CHANGES IN GENE EXPRESSION
IN GRANULOCYTIC CELLS**

2. The papers enclosed are as follows:

68 Page(s) of specification including
64 Pages of Description
4 Page(s) of claims
1 Page of abstract
11 Sheet(s) of drawings
X Other: Preliminary Amendment

3. Amendments

For continuation and divisional applications:

- Cancel in this application original claims 1-13 and in the enclosed copy of prior application before calculating the filing fee.
- A preliminary amendment is enclosed. (Claims added by this amendment have been properly numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

4. Oath or Declaration

For continuation or divisional applications:

- A newly executed (original or copy) oath or declaration are enclosed.
- Copies of oaths or declarations from a prior application are enclosed under 37 C.F.R. § 1.63(d). The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied is considered as part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
- A signed statement deleting inventor(s) named in the prior application is enclosed.

For continuation-in-part applications:

- A newly executed (original or copy) oath or declaration is enclosed.
- An oath or declaration is not enclosed. This application is being filed under 37 C.F.R. § 1.53(f). Applicant(s) await notification from the Patent and Trademark Office of the time set for filing the declaration and paying the filing fees.

5. Relate Back - 35 U.S.C. § 120

- Amend the specification by deleting lines 1-4 on page 1 of the specification and inserting before the first line the sentence:
- This application is a [] Continuation Divisional [] Continuation-in-Part patent application under 37 C.F.R. § 1.53(b), of Continuation Application No. 09/506,729, filed on February 18, 2000 (pending allowance), which

claims priority to PCT International Application No. PCT/US98/17284, filed August 21, 1998, which claims priority to U.S. Provisional application no. 60/056,844, filed on August 22, 1997, all of which are herein incorporated by reference in their entirety.

- [] International Application No. _____ filed on _____ and which designated the U.S."
6. Priority - foreign applications under 35 U.S.C. § 119(a)-(d) or § 365(b) or PCT international applications under 35 U.S.C. § 365(a) designating at least one country other than the U.S.
7. Assignment

For continuation or divisional applications:

- The prior application is assigned of record to **GENE LOGIC, INC.**, recorded **January 8, 2001** at Reel/Frame 01416/0884; **YALE UNIVERSITY**, recorded **January 8, 2001** at Reel/Frame 011416/0901; and **UNIVERSITY OF MASSACHUSETTS**, recorded at Reel/Frame 011416/0895.

- [] An assignment of the invention to _____
and a
PTO Form-1595, Recordation Form Cover Sheet, are enclosed.

For continuation-in-part applications:

- [] An assignment of the invention to _____
and a
PTO Form-1595, Recordation Form Cover Sheet, are enclosed.

8. Fee Calculation (37 C.F.R. § 1.16)

CLAIMS FOR FEE CALCULATION				
	Number Filed	Number Extra	at Rate of	Basic Fee
				Utility \$740.00 Design \$320.00
Total Claims (37 C.F.R. § 1.16(c))	35 - 20 = 9	15	\$ 18.00 each =	+ \$270.00
Independent Claims (37 C.F.R. § 1.16(b))	3 - 3 = 0	0	\$ 84.00 each =	+ \$.00
Multiple dependent claim(s), if any (37 C.F.R. § 1.16(d))			\$280.00	+ \$280.00
SUB-TOTAL =				\$1,290.00
Reduction by 2 for filing by a small entity				\$645.00
TOTAL FILING FEE =				\$645.00

9. Fee Payment

Not Enclosed. **NO FEE IS BEING PAID BY CHECK OR DEPOSIT ACCOUNT AT THIS TIME.**

This application is being filed under the provisions of 37 C.F.R. § 1.53(f). Applicant(s) await notification from the Patent and Trademark Office of the time set for filing the Declaration and paying the filing fees.

The Commissioner is authorized to charge Deposit Account No. 50-03120 in the amount of \$645.00 to cover:

basic filing fee	\$ 370.00
additional claims fee	135.00
presentation of multiple dependent claims	<u>140.00</u>
Total amount charged:	\$ 645.00

A check(s) in the amount of \$_____ to cover the _____ is enclosed.

- [] The fee for extra claims under 37 C.F.R. § 1.16(d) is not being paid at this time and no authorization is given to charge our deposit account for this fee.

10. Small Entity Status is claimed and

- [] a statement claiming small entity status is enclosed, or
[X] a small entity statement was filed in the prior nonprovisional application and is still proper and desired.

11. [X] The power of attorney in the prior application is to at least one of the registered practitioners of Morgan, Lewis & Bockius LLP included in the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and all correspondence shall be addressed to that Customer Number.

Please address all correspondence to Morgan, Lewis & Bockius LLP at
Customer Number: 009629

12. [] Recognize as associate attorney _____.
(name, address, and registration no.)

13. [X] **PETITION FOR EXTENSION OF TIME.** If any extension of time is necessary for the filing of this application, including any extension in the prior application, application no. 09/506,729, filed February 18, 2000, for the purpose of maintaining copendency between the prior application and the present application, and such extension has not otherwise been requested, such an extension is hereby requested, and the Commissioner is authorized to charge necessary fees for such an extension to Deposit Account No. 50-0310.

14. **EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be an **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

15. Additional papers enclosed:

- Information Disclosure Statement
- Form PTO-1449, _____ references included
- Declaration of Biological Deposit
- Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: Michael S. Tuscan

Michael S. Tuscan

Reg. No. 43,210

Dated: December 6, 2001

Customer No. 09629

MORGAN, LEWIS & BOCKIUS LLP

1800 M Street, N.W.

Washington, D.C. 20036-5869

202-467-7000 (Telephone)

202-467-7258 (Facsimile)